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1	UNITED STATES DISTRICT COURT
2	DISTRICT OF MASSACHUSETTS
3	IN RE NEW ENGLAND
4	COMPOUNDING PHARMACY, MDL No. 2419
5	INC., PRODUCTS LIABILITY Dkt No.
6	LITIGATION 1:13-MD-2419 (RWZ)
7	THIS DOCUMENT RELATES TO:
8	All Actions
9	
10	Videotaped Deposition of William Allen Mixon, M.D.
11	Tuesday, March 22, 2016 At 10:00 a.m.
12	110 10 00 a.m.
13	Taken at: Aloft Hotel
14	210 East Trade Street Charlotte, North Carolina
15	charlotte, North Carolina
16	
17	
18	
19	
20	
21	
22	Reported by LeShaunda Cass-Byrd, CSR, RPR
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6	617.523	.4800		6		titled: Chronicle Investigation,	
_		TEL, Esq.		7		Who is Mixing your Drugs? Bad	
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8	Suite 2			9		Recipe for Misery. Some	
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		_	
1	Page 198 of corticosteroids."	1	Page 200 prescription for disaster if not made right?
2	Do you see that?	2	A. I would
3	A. Uh-huh (affirmative).	3	Q. Okay.
4	Q. And then it says, "Our findings are in	4	A but I disagree that we're unregulated.
5	agreement with those reported by NG, et al., who were	5	We're highly regulated.
6	first to document the significant increase in the	6	Q. Well, it doesn't say unregulated. It says
7	growth rate of Aspergillus fumigatus or Aspergillus	7	the compounding pharmacies are a little-known, lightly
8	flavus exposed to hydrocortisone."	8	regulated shadow world of the American pharmaceutical
9	Do you see that?	9	industry.
10	A. Yes.	10	I take it you disagree with that?
11	Q. And it's Footnote 7. Do you see that?	11	A. I don't. That's inflammable.
12	The the NG study?	12	Q. Okay. So let's go down the sixth paragraph
13	A. Yes. Yes.	13	that talks about, "In 2001, 11 people in Northern
14	Q. Turn turn to Footnote 7. That was a	14	California developed bacterial infections from
15	study that was published back in a journal called	15	injections of steroid betamethasone."
16	Microbiology in 1994, correct?	16	That is another type of injectable steroid,
17	A. Uh-huh (affirmative). By Dr	17	correct?
18	Q. Eng.	18	A. Yes.
19	A Eng. Dr. E-n-g. That's his name.	19	Q. "Made by a compounding pharmacy. Three
20	Q. Okay. So prior to today, you were not	20	died.
21	aware that steroids or MPA could actually enhance,	21	"A year later, two people in Michigan
22	stimulate the growth of fungi?	22	developed bacterial meningitis from methylprednisone.
23	A. No.	23	Neither died.
24	MR. CLINE: Object to the form.	24	"That same year, seven people became ill
25	BY MR. ELLIS:	25	and two died from fungal infections caused by
23	DI PIK. ELLIIG.	23	and two dred from rungar innections caused by
	D 400		
1	Page 199		Page 201
1	Q. So let's go back to the Washington Post	1	contaminated methylprednisone made by a compounding
2	Q. So let's go back to the Washington Post article, the third paragraph of the article.	1 2	contaminated methylprednisone made by a compounding pharmacy in South Carolina.
2	Q. So let's go back to the Washington Post article, the third paragraph of the article. "In short, methylprednisone acetate, an	1 2 3	contaminated methylprednisone made by a compounding pharmacy in South Carolina. "Last spring, contaminated steroids
2 3 4	Q. So let's go back to the Washington Post article, the third paragraph of the article. "In short, methylprednisone acetate, an injectable steroid in pharmaceutical pilots, is a	1 2 3 4	contaminated methylprednisone made by a compounding pharmacy in South Carolina. "Last spring, contaminated steroids injected into the eyes of patients in Florida caused
2 3 4 5	Q. So let's go back to the Washington Post article, the third paragraph of the article. "In short, methylprednisone acetate, an injectable steroid in pharmaceutical pilots, is a prescription for disaster if not made right. A	1 2 3 4 5	contaminated methylprednisone made by a compounding pharmacy in South Carolina. "Last spring, contaminated steroids injected into the eyes of patients in Florida caused 13 vision-damaging infections."
2 3 4 5 6	Q. So let's go back to the Washington Post article, the third paragraph of the article. "In short, methylprednisone acetate, an injectable steroid in pharmaceutical pilots, is a prescription for disaster if not made right. A few"	1 2 3 4 5 6	contaminated methylprednisone made by a compounding pharmacy in South Carolina. "Last spring, contaminated steroids injected into the eyes of patients in Florida caused 13 vision-damaging infections." Do you see that?
2 3 4 5 6 7	Q. So let's go back to the Washington Post article, the third paragraph of the article. "In short, methylprednisone acetate, an injectable steroid in pharmaceutical pilots, is a prescription for disaster if not made right. A few" MR. KRAUSE: Where are you are?	1 2 3 4 5 6 7	contaminated methylprednisone made by a compounding pharmacy in South Carolina. "Last spring, contaminated steroids injected into the eyes of patients in Florida caused 13 vision-damaging infections." Do you see that? A. Yes.
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Pages 202..205

	EOTAPED DEPOSITION OF WILLIAM ALLEN M		
1	Page 202 first two paragraphs talks about a man who had	1	Page 204 Do you see that?
2	received a cortisone shot for his chronic back pain.	2	A. Yes.
3	Do you see that?	3	Q. Would you agree that that was true in 2001?
4	A. Well, at the first	4	MR. KRAUSE: Object to the form.
5	Q. The first two paragraphs.	5	THE WITNESS: Definitely the second
6	A paragraphs?	6	sentence. How much oversight occurred in
7	Yes. Yes.	7	California at the state level, I certainly
8	Q. And the third paragraph, "But on May 30th,	8	can't say.
9	2001, less than 24 hours after his cortisone shot,	9	BY MR. ELLIS:
10	George Stahl was dead."	10	
11		11	Q. Well, were you aware that this resulted in legislation in California, this death and this
	, , , , , , , , , , , , , , , , , , ,	12	
12		13	outbreak of meningitis from an injectable steroid made
	that the seemingly healthy UPS driver was killed by		by a compounding pharmacy resulted in legislation in
14	meningitis."	14	California where they tried to impose more regulation
15	Do you see that?	15	on compounding pharmacies?
16	A. I see where it says that he died from a	16	A. I did not know that.
17	burst blood vessel in the brain.	17	MR. CLINE: Object to the form.
18	Q. Well, that is what the doctors first said.	18	BY MR. ELLIS:
19	But then let's go to the autopsy in the next	19	Q. Okay. That is fine.
20	paragraph.	20	A. But do I know that California has very
21	A. "They donated his organs. The doctors were	21	strict compounding regulations.
22	in for a shock. The organs were riddled with	22	Q. Okay. But you don't know when they were
23	bacteria, and the autopsy concluded that the healthy	23	enacted or whether they were in enacted in response in
24	UPS driver was killed by meningitis."	24	this outbreak?
25	Yes.	25	A. No, I didn't know that.
-	Page 203		D 005
١.		١	Page 205
1	Q. Okay. Next page. "The cortisone was later	1	Q. Okay. Let's go to the two paragraphs
2	Q. Okay. Next page. "The cortisone was later found to be contaminated with deadly bacteria. It had	2	Q. Okay. Let's go to the two paragraphs down. But it is only one of many recent incidents
2	Q. Okay. Next page. "The cortisone was later found to be contaminated with deadly bacteria. It had been made at Doc's Pharmacy in Walnut Creek."	2	Q. Okay. Let's go to the two paragraphs down. But it is only one of many recent incidents around the country of compounding gone awry."
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Okay. Next page. "The cortisone was later found to be contaminated with deadly bacteria. It had been made at Doc's Pharmacy in Walnut Creek." That's about a half an hour outside of San Francisco. "Where drugs were mixed from scratch in practice known as pharmacy compounding." A. Uh-huh (affirmative). Yes. Q. So back in 2001, when this happened, were you aware of this incident that occurred in at Doc's Pharmacy? A. I may have been. I don't recall. Q. Let me see if this refreshes your memory. The pharmacist who actually compounded it committed suicide after this. Does that ring a bell? MR. CLINE: Object to the form. THE WITNESS: It doesn't. BY MR. ELLIS: Q. Okay. If we go two more paragraphs, the paragraph beginning, "Yet there is little." "Yet there is little oversight by either federal or state regulators to ensure the drugs made	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Okay. Let's go to the two paragraphs down. But it is only one of many recent incidents around the country of compounding gone awry." And then it talks about an example in Kansas City where 34 cancer patients it Kansas City were given watered-down chemotherapy drugs by a compounding pharmacist, who, when he confessed, said he was trying to save money to meet pledges he had made to his church. "In the spring, Pharmacist Richard Courtney told investigators that as many as 4,200 patients may have received diluted drugs since 1992." Were you aware of that incident? A. Yes. Q. And then he the reporter gives another example. "Four patients were hospitalized in an Atlanta suburb. Two in a coma, after they swallowed a compounded thyroid drug that was as much as a thousand times the prescribed strength. The pharmacist, John Marzullo, surrendered his license in February." Are you aware of that incident? A. I did not know about that.



Pages 334..337

עוט	EUTAPED DEPOSITION OF WILLIAM ALLEN W	IIAC	in, w.d. on 03/22/2016 Pages 33433/
1	Page 334 (Plaintiff's Exhibit 1459 was marked	1	Page 336 public health problems, including a handful of deaths
2	for identification.)	2	linked to compounded drugs. State officials in
3	BY MR. ELLIS:	3	Missouri say that last year they ordered a mail order
4	Q. It's a Wall Street Journal article. And if	4	compounding pharmacy to recall a batch of respiratory
5	you take a look at the first couple of paragraphs, do	5	drugs that may have been contaminated with a deadly
6	you see oh, by the way, this is the Wall Street	6	bacteria. The drugs may have reached more than 19,000
7	Journal, February 27th, 2004. Are you familiar with	7	people.
8	that newspaper?	8	"In 2001, three California patients died of
9	A. Certainly.	9	meningitis after receiving contaminated steroid shots
10	Q. And do you see where it says Page A-1?	10	made by a compounder."
11	A. Yes.	11	That was the incident at the Walnut Creek
12	Q. And you are familiar with that that	12	pharmacy that we talked about.
13	is this is the front page.	13	And then can you turn to the last
14	A. Okay.	14	paragraph well, the last sentence of Page 2. Could
15	Q. Okay. The title of the article is,	15	you read that. "Lawyers for Urgent Care, the pharmacy
16	"Stirring Debate. As druggists mix customized brews,	16	involved in this outbreak."
17	FDA raises alarm. Compounders often meet special	17	A. I am sorry. Starting where?
18	needs, but industry falls in regulatory gap. Rare	18	Q. The last sentence on Page 2.
19	fungus in the steroids."	19	A. "The pharmacy has filed for Chapter 7
20	Do you see that?	20	liquidation bankruptcy and is no longer operating."
21	A. Yes.	21	Is that the sentence you were referring to?
22	Q. Okay. This is February 2004. It's before	22	Q. Yes.
23	the death with the Triangle Pharmacy in late 2004 and	23	And then at the top of Page 3, please,
24	2005 and all the publicity that got. This is in	24	first sentence?
25	response to a South Carolina pharmacy called Urgent	25	A. Well, this is talking about "Urgent Care
	Page 335		Page 337
1	Care Pharmacy. Does that strike a bell, that that was	1	Pharmacy in Spartanburg filing for Chapter 7
2	the pharmacy?	2	liquidation bankruptcy and no longer operating.
3	A. Yes.	3	'Incidents such as these, which regulators found out
4	Q. Okay. And it talks about this man, Donald	4	about, might be the tip of the iceberg when it comes
5	Boles Boles, who had fell off a ladder and ruptured	5	to concerns with compounding drugs because there is no
6	a disc in 2002. His doctor prescribed a spinal	6	mandatory reporting of problems,' says David Horowitz,
7	steroid injection to ease the pain.	7	director of the Office of Compliance and FDA Center
8	Six months later, after two more shots and	8	for Drug Evaluation and Research. 'Compounded
9	back surgery, the pain got worse. And a rare fungus	9	products aren't typically tested for safety or purity
10	normally found only in soil was growing inside the	10	before dispensed to patients."
11	tissues of his lower back, eating away at his bones.	11	Q. Okay. So this was February 2004, front
12	Do you see that?	12	page article in the Wall Street Journal.
13	A. Yes.	13	MR. CLINE: Object to the form.
14	Q. Okay. And the second sentence of the	14	BY MR. ELLIS:
15	second paragraph says, "Investigators from the Center	15	Q. And then
16	for Disease Control Prevention traced the mold to a	16	MR. KRAUSE: Object to the extent
17	batch of contaminated steroid shots that had already	17	that all we have done is have a section of
18	infected five people."	18	this article read into the record by either
19	Do you see that?	19	the attorney or the witness.
20	A. Yes.	20	BY MR. ELLIS:
21	Q. Okay. And then let's turn to the second	21	Q. So then I want to show you exhibit what
22	page of this Wall Street Journal article, the third	22	was that exhibit?
23	full paragraph.	23	MR. KRAUSE: There wasn't a single
24	Do you see where it says, "The tainted shot	24	question.
25	Mr. Boles received was one example in a string of	25	THE WITNESS: 1459.



Pages 338..341

Page 338 1 BY MR. ELLIS: 2 Q. So let me show you Exhibit 1460. 3 (Plaintiff's Exhibit 1460 was marked 4 for identification.) 5 BY MR. ELLIS: 6 Q. This is from WebMD Health News, March 24th, 7 2005. Can you read the this is entitled 8 MR. CLINE: Rick. 9 MR. ELLIS: 1 MR. KRAUSE: Object to the form BY MR. ELLIS: 5 A. We were vehemently possition on that legislation? 5 A. We were vehemently opposed to incomposed to incompose to one of the position on that legislation? 7 Legislation? 8 A. I did. 9 MR. ELLIS: I am sorry. 9 MR. ELLIS: I have no further questions. 10 questions. 11 Q. This is entitled, "Closer scrutiny urged incompounded drugs. Groups decry lack of standards incomposition on that legislation? 8 A. We were vehemently opposed to incomposition on that legislation? 9 And did you lobby Congress to one of legislation? 10 legislation? 11 pust have no further questions. 12 BY MR. CLINE: 13 Q. Mr. Mixon, I just have a couple of the form MR. ELLIS: 14 Description on that legislation? 15 A. We were vehemently opposed to incomposition on that legislation? 16 Q. And did you lobby Congress to one of legislation? 18 A. I did. 9 MR. ELLIS: I have no further questions. 19 Q. Mr. Mixon, I just have a couple of the form MR. ELLIS: 10 Q. Mr. Mixon, I just have a couple of the form MR. ELLIS: 11 Q. Mr. Mixon, I just have a couple of the form MR. ELLIS: 12 Q. Mr. Mixon, I just have a couple of the form MR. ELLIS:	n and your
Q. So let me show you Exhibit 1460. (Plaintiff's Exhibit 1460 was marked 3 Q. And what was the IACP's position of identification.) BY MR. ELLIS: 5 A. We were vehemently opposed to i Q. This is from WebMD Health News, March 24th, 6 Q. And did you lobby Congress to on the position on that legislation? MR. CLINE: Rick. 7 legislation? MR. CLINE: Rick. 8 A. I did. 9 MR. ELLIS: I am sorry. 9 MR. ELLIS: I have no further BY MR. ELLIS: I am sorry. 9 MR. ELLIS: I have no further 10 guestions. 11 Q. This is entitled, "Closer scrutiny urged 11 EXAMINATION 12 for compounded drugs. Groups decry lack of standards 12 BY MR. CLINE: 13 and labelling for drugs mixed by pharmacy labs." 13 Q. Mr. Mixon, I just have a couple	n and your
3 Q. And what was the IACP's position 4 for identification.) 5 BY MR. ELLIS: 6 Q. This is from WebMD Health News, March 24th, 7 2005. Can you read the this is entitled 8 MR. CLINE: Rick. 9 MR. ELLIS: I am sorry. 10 BY MR. ELLIS: 10 questions. 11 Q. This is entitled, "Closer scrutiny urged 12 for compounded drugs. Groups decry lack of standards 13 Q. Mr. Mixon, I just have a couple 13 Q. Mr. Mixon, I just have a couple 14 position on that legislation? 5 A. We were vehemently opposed to i Q. And did you lobby Congress to on This is entitled 9 MR. ELLIS: I am sorry. 9 MR. ELLIS: I have no further questions. 10 questions. 11 Q. This is entitled, "Closer scrutiny urged 11 EXAMINATION 12 BY MR. CLINE: 13 Q. Mr. Mixon, I just have a couple 15 Q. Mr. Mixon, I just have a couple 16 decrease 17 Q. Mr. Mixon, I just have a couple 17 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have a couple 18 Q. Mr. Mixon, I just have 29 Q. Mr. Mixon, I just have 20 Q. Mixon	Ę.
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13 and labelling for drugs mixed by pharmacy labs." 13 Q. Mr. Mixon, I just have a couple	
	of quick
14 Do you see that? 14 questions for you.	0_ 1
15 A. Yes. 15 I want to take you back to our	ohone call
16 Q. Could you read the first two paragraphs, 16 with Joe Connelly	
17 please. 17 THE COURT REPORTER: I can bare	v
18 MR. KRAUSE: Same objection. 18 hear you.	-1
19 THE WITNESS: "March 24th, 2005, a 19 BY MR. CLINE:	
20 group of medical organizations called on 20 Q. I would like to take you back t	our phone
21 the FDA to crack down on pharmacies they 21 call with Joe Connelly last Sunday.	, car prone
22 say concoct copycats of pharmacy products 22 Do you remember that phone call	,
23 without oversight from the federal 23 A. Yes.	
24 government. 24 Q. Do you remember whether Joe Con	nelly told
25 "The groups want the agency to 25 us whether the stir plates and the isolato	_
25 and which the descript to an another the period and the about	. IDOOD WCIC
Page 339	Page 341
1 require stricter labelling on drugs mixed 1 large or small stir plates?	
2 by pharmany laboratories because of 2 MD Charling to the f	
2 by pharmacy laboratories because of 2 MR. GASTEL: Objection to the f	orm.
3 concerns that patients are not aware that 3 THE WITNESS: He said they were	orm.
3 concerns that patients are not aware that 3 THE WITNESS: He said they were 4 they are not governed by FDA-manufacturing 4 small.	orm.
3 concerns that patients are not aware that 4 they are not governed by FDA-manufacturing 4 small. 5 rules." 5 BY MR. CLINE:	
3 concerns that patients are not aware that 4 they are not governed by FDA-manufacturing 5 rules." 6 BY MR. ELLIS: 6 Q. And did he tell us anything abo	
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3 Concerns that patients are not aware that 4 they are not governed by FDA-manufacturing 5 rules." 6 BY MR. ELLIS: 6 Q. And did he tell us anything about 7 Q. Okay. And do you see at the bottom of the 8 first page, there is a paragraph talking about a group 8 A. Well, I saw on the videos, and	u t the stir ne also said
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